

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2016 SEP 29 AM 11:46  
REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF:

MRT Laboratories, LLC

RESPONDENT

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Consent Agreement and Final Order  
EPA Docket No. RCRA-06-2016-0945

CONSENT AGREEMENT AND FINAL ORDER

I.

PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order ("CAFO") is entered into by the United States Environmental Protection Agency, Region 6 ("EPA" or "Complainant") and Respondent, MRT Laboratories, LLC ("MRT Laboratories" or "Respondent") and concerns the facility located at 305 Nebraska St. South Houston, Texas 77587 (the "Facility").

2. Notice of this action has been given to the State of Texas, under Section 3008(a)(2) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a)(2).

3. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.

5. The CAFO resolves only those violations which are alleged herein.

6. Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

II.  
JURISDICTION

7. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and is simultaneously commenced and concluded through the issuance of this CAFO under 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

8. Respondent agrees to undertake and complete all uncompleted actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

III.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a domestic limited liability company (LLC) established and authorized to do business under the laws of the State of Texas, which operates the Facility located at 305 Nebraska St. South Houston, Texas 77587.

10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); and 30 TEX.ADMIN.CODE § 3.2(25)<sup>1</sup>, [40 C.F.R. § 260.10].

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<sup>1</sup> All citations to the EPA authorized Texas hazardous waste program refer to Title 30 of the Texas Administrative Code (T.A.C.) as amended, effective through December 31, 2009. 77 Fed. Reg. 71344, 71352 (November 30, 2012); 40 C.F.R. Part 272, Appendix A, Texas. The corresponding Code of Federal Regulation (C.F.R.) citations are also provided.

11. Respondent's business at the Facility comprises providing analytical services of machine fluids such as lubricants, grease, coolants, fuel and refrigerants.

12. During the period of February 16, 2016 through May 19, 2016, EPA conducted a RCRA investigation and record review ("Investigation") of MRT Laboratories' performance as a generator of hazardous waste.

13. During the Investigation, EPA discovered that MRT Laboratories, at a minimum, generated hazardous wastes, including spent non-halogenated solvents such as toluene (F005) and xylene (F003); and chloroform (D022).

14. The waste streams identified in Paragraph 13 are "hazardous waste" as defined in 30 TEX.ADMIN.CODE § 335.1(69), [40 C.F.R. §§ 261.24 and 261.31].

15. From the Investigation, EPA determined that from time to time during calendar years 2011 through 2015 MRT Laboratories generated or offered for transport and treatment without an EPA identification number, the hazardous waste streams identified in Paragraph 13 in quantities that exceeded the threshold amount of 100 kg of hazardous waste per month, which qualified MRT Laboratories, at a minimum, for the small quantity generator status under 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. Part 262].

16. The Facility listed in Paragraph 9 above is a "facility" within the meaning of 30 TEX.ADMIN.CODE § 335.1(59), [40 C.F.R. § 260.10].

17. MRT Laboratories is a "generator" of "hazardous waste" as those terms are defined in Sections 1004(5) & (6) of RCRA, 42 U.S.C. §§ 6903(5) & (6), and 30 TEX ADMIN.CODE §§ 335.1(65) & (69), [40 C.F.R. § 260.10].

18. As a generator of hazardous waste, MRT Laboratories is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R Part 262].

**Claim i. Notification Requirements**

19. The allegations in Paragraphs 1-18 are re-alleged and incorporated herein by reference.

20. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. No identified or listed hazardous waste subject to this subchapter may be transported, treated, stored, or disposed of unless the required notification has been given.

21. MRT Laboratories did not file with the Administrator or the authorized State a notification of its hazardous waste activities for at least the period of 2011 through 2015 in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

**Claim ii. Managing Hazardous Waste without a Generator Identification Number**

22. The allegations in Paragraphs 1-21 are re-alleged and incorporated herein by reference.

23. Pursuant to 30 TEX.ADMIN.CODE § 335.63(a), [40 C.F.R. § 262.12(a)], a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

24. During the Investigation, EPA determined that MRT Laboratories did not apply to the Administrator and receive an EPA identification number.

25. From time to time during the period of 2011 to 2015, MRT Laboratories treated, stored, disposed of, and/or offered for transportation hazardous waste without having received an EPA identification number from the Administrator in violation of 30 TEX.ADMIN.CODE § 335.63(a), [40 C.F.R. § 262.12(a)].

**Claim iii. Failure to Operate Within Its Stated Generator Status**

26. The allegations in Paragraphs 1-25 are re-alleged and incorporated herein by reference.

27. During the Investigation, EPA determined that MRT Laboratories declared its generator status as a conditionally exempt small quantity generator ("CESQG").

28. Pursuant to 30 TEX.ADMIN.CODE § 335.78(b) and 40 C.F.R. § 261.5(b), as long as a CESQG complies with the applicable requirements under 30 TEX.ADMIN.CODE §§ 335.78(e), (f), (g) and (j) and 40 C.F.R. §§ 261.5 (e), (f), (g) and (j) the generator's hazardous waste is not subject to regulation under 30 TEX.ADMIN.CODE, Chapter 335, Subchapters C-H and O; 40 C.F.R. Parts 262 through 268; 40 C.F.R. Parts 270 and 124; and the requirements of Section 3010 of RCRA, 42 U.S.C. § 6930.

29. From time to time during the period of at least 2011 through 2015, MRT Laboratories did not comply with its declared CESQG status on several occasions by exceeding the limits for generation of hazardous waste, and therefore, at a minimum, operated as a small quantity generator ("SQG") in violation of the regulations set forth at 30 TEX.ADMIN.CODE, Chapter 335, Subchapter C, [40 C.F.R. Part 262].

**IV.  
COMPLIANCE ORDER**

30. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered, upon the effective date of this Order, not to treat, store, dispose of, transport, and/or offer

for transportation, hazardous waste without first receiving an EPA identification number from the State of Texas for the Facility currently owned and/or operated that is listed in Paragraph 9 above.

31. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within ninety (90) calendar days of the effective date of this Order, Respondent shall provide in writing the following:

- A. Respondent shall certify that it has assessed all of its solid waste streams at the Facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOP") intended to ensure that MRT Laboratories is operating in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for:  
(a) making hazardous waste determinations; (b) managing hazardous wastes;  
(c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements;
- B. Respondent shall certify that it has accurately and adequately complied with the notification requirements pursuant to RCRA § 3010, 42 U.S.C. §6930;
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above; and
- D. Respondent shall provide a reasonable estimate of the funds expended to bring the facility into compliance with the ordering provisions hereof and an estimate of any reduction of waste (if any), if applicable, as a result of such compliance.

32. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of MRT Laboratories and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency  
Compliance Assurance and Enforcement Division  
Waste Enforcement Branch  
Waste Compliance II Section (6EN-H2)  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Attn: Debra Pandak

V.  
TERMS OF SETTLEMENT

**i. Penalty Provisions**

33. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, Respondent's good faith efforts to comply with the applicable regulations, and EPA's assessment of Respondent's ability to pay, it is ordered that Respondent be assessed a civil penalty of **Seventy-six Thousand Seven Hundred Nine Dollars (\$76,709.00)**.

34. The penalty shall be paid within forty-five (45) calendar days of the effective date of this CAFO and made payable to the Treasurer, United States of America.

35. The following are Respondent's options for transmitting the penalties:

Checks sent via U.S. Postal Mail (including certified mail) or U.S. Postal Service

Express Mail should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Checks sent via Overnight Mail (non-U.S. Postal Service) should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

Wire Transfers should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

The case name and docket number (**In the Matter of MRT Laboratories LLC, Docket No. RCRA-06-2016-0945**) shall be clearly documented on or within your chosen method of payment to ensure proper credit.

36. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Mark Potts, Chief  
Waste Enforcement Branch (6EN-H)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
Attention: Debra Pandak



Your adherence to this request will ensure proper credit is given when penalties are received by EPA.

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the civil penalty's due date and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

#### ii. Cost

38. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**iii. Termination and Satisfaction**

39. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV (Compliance Order), Paragraph 32. Unless the EPA, Region 6 objects in writing within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

**iv. Effective Date of Settlement**

40. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS  
CONSENT AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT:

Date: 9/22/2016



Benjamin Hartman  
President  
MRT Laboratories LLC

FOR THE COMPLAINANT:

Date: 2/28/16



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date:

9/29/16



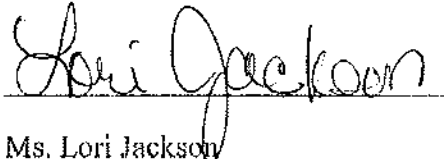
Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of Sept., 2016, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED** 7014 0150 0000 2454 8478

Benjamin Hartman  
President  
MRT Laboratories LLC  
305 Nebraska St.  
South Houston, TX 77587



Ms. Lori Jackson  
Paralegal